

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JIMMY ELLIS CLARK,

Plaintiff,

v.

STEVENS COUNTY DISTRICT  
COURT,

Defendant.

NO. CV-09-00163-EFS

**ORDER DENYING PLAINTIFF'S  
MOTION TO RECONSIDER**

Before the Court, without oral argument, is Plaintiff Jimmy Ellis Clark's Motion to Reconsider. (Ct. Rec. [20](#).) Clark contends that the Court erred by dismissing his complaint with prejudice (Ct. Rec. [19](#)). After reviewing Clark's motion, the file, and relevant authority, the Court is fully informed. For the reasons given below, the Court denies Clark's motion.

Reconsideration is appropriate if 1) the Court is presented with newly-discovered evidence, 2) the Court committed clear error or the initial decision was manifestly unjust, or 3) there is an intervening change in controlling law. *See United States v. Alexander*, 106 F.3d 874, 876 (9th Cir. 1997); *All Hawaii Tours, Corp. v. Polynesian Cultural Ctr.*, 116 F.R.D. 645, 648 (D. Hawaii 1987), *rev'd on other grounds*, 855 F.2d 860 (9th Cir. 1988). Clark identified neither an intervening change in

1 the controlling law nor newly-discovered evidence. Accordingly, Clark  
2 appears to argue that reconsideration is appropriate because the Court  
3 committed clear error or the prior Order was manifestly unjust for the  
4 following reasons: 1) he never requested damages; 2) the petition for  
5 writ of review that Judge Suko denied was unrelated to this case; 3) he  
6 submitted admissible evidence to support his factual allegations; 4) the  
7 United States Constitution requires all state officials to take an oath  
8 of office; 5) the officials in question did not take and file oaths of  
9 office as defined under Washington state law; 6) the alleged failure of  
10 the officials in question to take their oath of office deprived him of  
11 due process of law, presenting a federal question; and 7) Washington  
12 courts failed to follow Washington court rules, Washington case law, and  
13 Washington statutes when convicting him and upholding his conviction.

14 Clark does not present a valid challenge to the Court's prior Order.  
15 Regardless of whether he requested damages, he did not present valid  
16 reasons to vacate his conviction. The Court did not rely on the outcome  
17 of the petition filed with Judge Suko in arriving at its decision, but  
18 merely noted that the petition apparently dealt with many of the same  
19 issues as this case. Furthermore, whatever evidence Clark submitted along  
20 with his pleadings is irrelevant at this stage in litigation, when the  
21 Court considered only the pleadings and found that he failed to state a  
22 claim upon which relief could be granted.

23 The final four alleged grounds for reconsideration are all related,  
24 and the Court stands by its initial determination that they do not  
25 provide Clark with the relief he requests from this Court. Nowhere did  
26 Clark allege that the officials who investigated him, prosecuted him,  
tried him, and heard his appeal did not take an oath to support the

1 United States Constitution; he alleges only that they did not follow  
2 Washington state law procedures for filing the oath of office. As stated  
3 in the Court's Order dismissing Clark's complaint, failure to follow  
4 state law is not a reason to invalidate a conviction under federal law.

5 For the reasons given above, the Court abides by its initial  
6 decision; Plaintiff may not pursue this action. Accordingly, **IT IS**  
7 **HEREBY ORDERED:** Plaintiff's Motion to Reconsider (Ct. Rec. [20](#)) is  
8 **DENIED.**

9 **IT IS SO ORDERED.** The District Court Executive is directed to enter  
10 this Order and provide a copy to Plaintiff and counsel.

11 **DATED** this 8<sup>th</sup> day of April 2010.

12  
13 S/ Edward F. Shea

EDWARD F. SHEA

14 United States District Judge

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